

Group 2 – A wafer with a layer of chromium with a low intrinsic tensile stress and a layer of nickel vanadium.

(Claims 5, 7, 9, 10, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 48, 53, 54, 55, 56, 57, 58, 62, 64, 68)

Group 3 – A wafer with a layer of chromium with a low intrinsic tensile stress.

(Claims 11, 12, 13, 14, 15, 16, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 61, 65, 66, 67, 69)

2. Claims 1, 3, 4, 59, 60 and 63 do not fit in any of the above groupings since they do not recite chromium or nickel vanadium on the wafer. Claims 4 and 63 recite chromium but this is only for the coating of the waferland and not for the coating of the wafer. Claims 1, 3, 59 and 60 do not recite chromium or nickel vanadium on the wafer.

3. Some of the claims listed in groups 2 and 3 also do not recite that the chromium has a low intrinsic tensile stress. However, they have been listed in an individual one of groups 2 and 3 because they recite methods of processing the wafer to receive a layer of chromium. The specification indicates that the methods recited in these claims would produce a chromium layer with a low intrinsic tensile stress.

4. Applicant elects to prosecute the claims in group 2. However, in making the election to prosecute the claims in group 2, applicant has retained the right to prosecute in this application the claims in groups 1 and 3. Applicant has retained this right because the methods and apparatus recited in groups 1 and 3 are subcombinations of

the methods and apparatus recited in the claims in group 2. It is well recognized that subcombination claims can be prosecuted in the same application as the combination claims from which their subcombination status arises. After all, the Examiner will have to search the prior art relating to the subcombinations in order to determine the allowability of the claims reciting to the combination.

5. Applicant should like to point out that claim 11 is generic to all of the claims in groups 2 and 3. If the Examiner agrees with this position of applicant, applicant would be willing to have all of the claims in groups 2 and 3 issue in this application and to file a divisional application on the remaining claims.

6. In the Office Action dated 05/17/05, the Examiner has made the following statement on page 2:

"Applicant's arguments, see remarks, filed 2/23/05, with respect to claims 1, 3-20, 22-58 and 65-69 have been fully considered and are persuasive. The non-final rejection of 11/17/04 has been withdrawn." (Underlining supplied.) Claims 21 and 59-64 have been previously allowed by the Examiner. It would accordingly appear to applicant that the Examiner has allowed all of the claims in the application.

If applicant is correct in his assumptions as expressed in the previous paragraph, applicant's attorney is confronting an unusual situation that he has not previously encountered in more than fifty (50) years of practice in the USPTO. In this application, the Examiner is requiring an election of claims after the application has been essentially allowed.

Generally, an election is required in an application at the beginning of the prosecution of the application. The purpose of the divisional requirement is to ensure that the Examiner will not have to make more than one (1) search of the prior art in any application.

In this application, the Examiner has already searched the prior art and is apparently ready to allow all of the claims in the application. A requirement of division is accordingly not productive. Actually, it penalizes the applicant and the applicant's assignee since it requires the applicant's assignee to pay additional fees in filing the divisional applications that the applicant's assignee would not otherwise have to pay. The requirement of division is particularly not appropriate in this application since applicant's assignee is a very small company in a highly competitive field. The filing fees would be for (a) the claims in group 1, (b) the claims in group 3 and (c) claims 1, 3, 4, 59, 60 and 63 which are not in any of groups 1, 2 and 3.

Applicant is not even certain that the Examiner would allow claims 1, 3, 4, 59, 60 and 63 to be retained in a single application in view of the discussion above with respect to these claims. The requirement of division is also not particularly appropriate since the claims in groups 1, 2 and 3 are proper in a single application because the claims in groups 1 and 3 are appropriate to be examined as subcombinations in the same application as the claims in the combination recited in group 2.

7. Applicant notes and appreciates the allowance of claims 21 and 59-64 and what appears to applicant to be the allowance in the Office Action dated 05/17/05 of claims 1, 3-58 and 65-69.

8. Reconsideration and allowance of the application are respectfully requested.

Respectfully submitted,

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